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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,827	10/29/2001	Jason R. Thompson	D5110	5624

7590

07/28/2004

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EXAMINER

ROSENBERG, LAURA B

ART UNIT PAPER NUMBER

3616

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/047,827

Applicant(s)

THOMPSON ET AL.

Examiner

Laura B Rosenberg

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/047,827  
Filing Date: October 29, 2001  
Appellant(s): THOMPSON ET AL.

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Jeffrey P. Calfa  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 26 March 2004.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

Appellant's brief includes a statement that claims grouped with claim 1 (claims 1-4, 12-16, 17-21, 29-31, 33-40) and claims grouped with claim 5 (claims 5-11, 22-28) do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

**(8) Claims Appealed**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) Prior Art of Record**

3,395,883	Murgas	8-1968
5,100,093	Rawlinson	3-1992

Applicant's admitted prior art; Figure 3 labeled as Prior Art in this document.

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-40 rejected under 35 U.S.C. 103(a). This rejection is set forth in a prior Office Action, mailed on 01 October 2003.

**(11) Response to Argument**

The appellant argues that Rawlinson does not teach a "universal accessory-mounted assembly". The examiner contends that Rawlinson's accessory-mounted assembly is universal in that it is versatile and could be adapted to meet various

requirements, as pointed out when Rawlinson states that the ball from the ball-and-socket assembly "allows the clamps 51 to adapt to all windshields on the market. The ball 50 is necessary because most windshields having compound angles" (Rawlinson: column 5, lines 24-27). Also, though not specifically pointed out, the assembly could be used for various accessory mountings.

The appellant argues that Rawlinson does not teach biaxial movement of the ball-and-socket joint. The examiner contends that the ball-and-socket joint provides a multi-axis pivot, which includes biaxial movement (Rawlinson: column 5, lines 30-32).

The appellant argues that the examiner made a mistake on page 4, the first full paragraph of the final office action. The examiner agrees with the appellant, and apologizes for any confusion. This paragraph should read, "Murgas discloses three support components..."

The appellant argues that the Murgas reference differs from the Rawlinson reference, the admitted prior art, and the appellant's claimed invention in that Murgas's accessory-mounted assembly is intended to be readily removable. However, the appellant does not point out that this feature makes the Murgas reference less applicable as a prior art reference. The examiner contends that this feature of the Murgas reference has no bearing on its use as prior art in the examiner's rejection.

The appellant argues that it is not appropriate to modify the Murgas assembly or the admitted prior art assembly with Rawlinson's ball-and-socket joints because Rawlinson only teaches two support legs, instead of three support legs. The examiner contends that Rawlinson teaches the use of ball-and-socket joints for multi-axial

movement on surfaces of different shapes and sizes, which can be beneficial to assemblies with various numbers of legs.

The appellant argues that the Murgas reference would be rendered inoperable if modified to include ball-and-socket joints in between the support legs and the feet. The examiner contends that since Murgas's feet (#34, 36) are fixedly engaged on the base structure (#39; best seen in figure 3), the addition of ball-and-socket joints in between the feet and the support legs (#16, 20, 28) would not cause the assembly to be inoperable because the feet would still be able to fixedly engage the base structure, as in the current Murgas reference, and they would not self-detach.

Based on the order of the applicant's arguments, it appears that the applicant may have misunderstood the manner in which the references were applied in the prior art rejection. For clarification, the Murgas patent and the applicant's admitted prior art are both primary references, while the Rawlinson reference is a secondary reference. The teaching from the Rawlinson reference is the use of a ball-and-socket joint to attach a leg, or legs, of an accessory-mounting assembly to a base structure, such as a vehicle. Since the Rawlinson reference is the secondary reference, it is not required to teach all of the features of the claimed invention.

For the above reasons, it is believed that the rejections should be sustained.

Application/Control Number: 10/047,827  
Art Unit: 3616

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Respectfully submitted,

*Laura B. Rosenberg*

LBR  
July 20, 2004

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